

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

RICHARD W. COMERFORD
PLAINTIFF

Civil Action No. 05-10439-WGY

V.

MICHAEL W. STEWARD et al

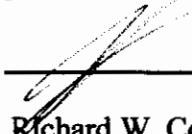
**Plaintiff's Motion For the Court To Order the Government to Comply With Its
Order and To Provide Plaintiff with an Authorized, Funded Medical Exam In
Accordance With Army Regulations**

1. Plaintiff hereby respectfully moves this honorable court to order the government to comply with its order and to provide plaintiff with an authorized, funded medical exam pursuant to the U.S. Army Regulations numbered 40-3 (medical Care), 40-501 (Standards of Medical Fitness), 135-381 (Incapacitation of Reserve Component Soldiers), 135-18 (Active Guard and Reserve Program) 15-185 (Army Board Correction Military Records)
2. In support of said motion Plaintiff offers the following: *See plaintiff's sworn Report to the Court dated 23 February 2006.*
3. Report Summary: AUSA Smith and Army Attorney Ausprung did not allow the U.S. Department of the Army to conduct the exam pursuant to the above cited regulations. Instead they telephonically coordinated an unauthorized and unfunded medical exam with the U.S. Air Force. The Air Force refused their

request citing both legal and ethical grounds. The Air Force referred plaintiff's case to Walter Reed Army Medical Center. The U.S. Army Inspector General then coordinated an authorized and funded exam at Walter Reed Army Medical Center. Smith and Ausprung blocked said exam. Instead they telephonically coordinated as a "favor" another unauthorized exam this time with a U.S. Coast Guard officer. Neither the U.S. Departments of the Army or the Coast Guard knew of, or authorized or funded said exam. Smith and Ausprung then substituted the medical record of another soldier for plaintiff's record for the exam. They further arranged for plaintiff to be taunted, harassed and ridiculed by Coast Guard personnel during the exam in hopes that he would be provoked into an emotional outburst, which after 12-years of government harassment, would lead to his arrest or death. At least two of the Coast Guard personnel who harassed plaintiff were armed. Smith and Ausprung deliberately placed plaintiff in fear for his life in order to stop him from pursuing his case in the justice system. Nevertheless plaintiff endured the exam and heard the Coast Guard officer pronounce him "fit for duty". However after said pronouncement the Coast Guard Clinic administrator told plaintiff that he was a civilian and that he could not be examined by the Coast Guard. The reason for plaintiff's ineligibility was that Smith had unlawfully removed plaintiff from the Defense Enrollment Eligibility Reporting System ("DEERS") by directing a fraudulent, illegally backdated, unsigned, discharge certificate, purportedly separating plaintiff from active duty for training pursuant to 32 USC 505, to be placed into the record. (Note: As evidenced by the November 2001 Army Board Correction Military Records

proceedings plaintiff never served on active duty for training pursuant to 32 USC 505 but on Active Guard and Reserve duty pursuant to 32 USC 502 (f). In April 2005 the U.S. Departments of Defense and Army through the good offices of plaintiff's Member of Congress informed plaintiff that he had never been discharged from Active Guard and Reserve and that he remained on said duty until he was issued a DD Form 214 separating him from Active Guard and Reserve.)

Respectfully submitted,



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Dated: 24 February 2006

Certificate of Service

I hereby certify as attested by my signature above that on the date of said signature I served a true copy of this motion by First Class Mail upon AUSA Smith.